

FILED & SERVED ELECTRONICALLY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INNA GUDAVADZE, LIANA ZHMOTOVA,
AND IYA PATARKATSISHVILI,

Plaintiffs,

v.

JOSEPH KAY (A/K/A JOSEPH
KAKALASHVILI, A/K/A JOSEPH KEJ,
A/K/A IOSEB KAKALASHVILI, A/K/A
IOSEB KAKIASHVILI) AND EMANUEL
ZELTSER,

Defendants.

08 Civ. 3363 (RJS)

NOTICE OF MOTION OF
DEFENDANTS ZELTSER
AND FISHKIN TO DISMISS
COMPLAINT

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, and the accompanying Declaration of Alexander Fishkin, dated September 30, 2008, Declaration of Zlata Stepanenko, dated September 30, 2008, Declaration of Edward J.M. Little, dated October 3, 2008, and, in addition, upon the Memorandum of Law submitted by defendant Joseph Kay, and the accompanying declarations and exhibits, all of which defendants Emanuel Zeltser and Alexander Fishkin adopt insofar as they apply to them, and upon the pleadings and all prior proceedings herein, defendants Zeltser and Fishkin, by their attorneys Hughes Hubbard & Reed LLP, will move this Court, before the Honorable Richard J. Sullivan, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and at a time set by the Court, for an order or judgment: (i) pursuant to Rule 12 (b)(1) of the Federal Rules of Civil Procedure, dismissing Plaintiffs' Amended Complaint with prejudice on the grounds of lack of

subject matter jurisdiction as to defendants Zeltser and Fishkin; (ii) based upon the doctrine of *forum non conveniens* and principles of international comity and abstention, dismissing Plaintiffs' Amended Complaint with prejudice as to defendants Zeltser and Fishkin; or, in the alternative, for a stay of this action pending determination of foreign proceedings relating to the same subject matter; and (iii) for such other and further relief as is just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's Order of August 14, 2008, opposing papers must be served and filed by November 10, 2008.

Dated: October 6, 2008

HUGHES HUBBARD & REED LLP

By: /s/ Edward J. M. Little
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